Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepulveda Carmona, on the draft guiding principles on extreme poverty and human rights (A/HRC/15/41, 6 August 2010)

National Human Rights Institution Response to Questionnaire on Draft Guidelines on Extreme Poverty and Human Rights

The South African Human Rights Commission is an ‘A’ status recognised National Human Rights Institution (NHRI) within the UN system. The responses to the questionnaire are as follows:

Ad II: Rationale for the development of guiding principles on human rights and extreme poverty

The value of drafting guiding principles on extreme poverty would be to ensure that the International Covenant on Economic Social and Cultural Rights (ICESCR) is being implemented effectively in countries which have ratified the Covenant. South Africa has yet to ratify both the Covenant and its Optional Protocol. In the absence of such ratification, the guidelines will provide only a uniform framework to ensure that extreme poverty is being addressed according to international principles that ensure non-discrimination.

Ad III: Conceptual Framework

Vulnerable groups including women, children, the elderly, non-nationals and persons with disabilities should be an issue which cuts through the entire text of the guiding principles. Extreme poverty is aimed at addressing the needs of the most vulnerable and it needs to ensure that all programmes, budgets and policies should be developed with the most vulnerable groups in mind so that they can adequately address the needs of the most vulnerable persons living in extreme poverty. It is important to also remember that in many countries farm workers or rural dwellers are often marginalised and are living in very patriarchal societies where they are largely dependent on their employer for their basic human needs. This group of persons also needs to be prioritised.

Ad IV: Overview of the main underlying and reinforcing deprivations faced by persons living in extreme poverty

The SAHRC associates itself with the views of Taylor\(^1\) who opines that there are specific issues which affect poverty in the South African context:

- The impact of HIV/AIDS which will place pressure on healthcare and then in turn affect household incomes
- Crime and Social Instability: the high crime levels places strain on families and increases domestic violence which increases the aspirations of the poor and vulnerable to seek employment opportunities

In South Africa, the rural poor are also subject more to poverty than persons in the urban areas. This is due to limited employment and low wages being paid in rural areas including within the farming community.

In addition, informal settlements that are home to dwellers in urban areas give rise to social conditions that are conducive to reinforcing extreme poverty due to the negative social effects of overcrowding.

**Ad V: Proposal for improving the draft guiding principles on extreme poverty and human rights**

It is our submission that the report fails to look at environmentally negligent conduct by industry or of the expropriation of land rights in favour of industry (particularly mining). It has to be borne in mind that the poor bear the brunt of such deprivations and irresponsibility both in the present and the future.

**Section 1: Overarching human rights principles**

All major overarching human rights principles appear to have been included in the DGP. These include: Universality, Inalienability, Indivisibility, Interdependence and Interrelatedness, Equality and Non-discrimination, Participation and Inclusion, Accountability and Rule of Law.

**D: Promoting the advancement of women and the elimination of gender-based discrimination**

- It is our submission that the utilisation of rape as an instrument of war and oppression and the linkages between this form of violence and the particular vulnerability to poverty experienced by women should be included in the guidelines.

**E: Ensuring public participation**

- It is our submission that broadband and various possible communication technologies need to be extended to rural, remote and poor areas to ensure that poor persons living in remote areas have access to information in order to participate effectively in decisions that affect their lives.

**Section 3: Specific rights-based obligations**

Specific points:
M: Privacy and protection from intrusion in family life

- “...recommend revising national legal and administrative frameworks covering family life to protect persons from having authorities inappropriately intrude on their privacy” We submit that “arbitrary” replace the word “inappropriately”.

Q: Right to safe drinking water and sanitation

- It is our submission that the linkage between the right to health and dignity posed by inadequate sanitation is not referred to within the report and should be included therein.

T: Work and rights at work

- There should be a specific clause dealing with child labour which is distinct from the clause addressing “all forms of forced and bonded labour.”

- Include, as in the Universal Declaration of Human Rights (UDHR)\(^2\), the right to free choice of employment and protection against unemployment (Article 23: 1)

U. Right to Social Security

- Include, as in the UDHR, the “right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.” (Article 25: 1)

- Include, as in the UDHR, that motherhood and children are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection. (Article 25:2)

V: The Right to education

- Potentially include, as in the UDHR (Article 26:1) technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. The clause in the draft only mentions primary education.

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\(^2\) 1948.